

1 AN ACT concerning the environment.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Drycleaner Environmental Response Trust
5 Fund Act is amended by changing Sections 15, 20, 25, 40, 45,
6 60, 65, 70, 75, and 85 as follows:

7 (415 ILCS 135/15)

8 Sec. 15. Creation of Council.

9 (a) The Drycleaner Environmental Response Trust Fund
10 Council is established and shall consist of the following
11 voting members to be appointed by the Governor with the
12 advice and consent of the Senate:

13 (1) Five Three members who own or operate a
14 drycleaning facility. ~~Two--of--these--members--must--be~~
15 ~~members--of--the--Illinois--State--Fabricare--Association.~~
16 These members shall serve 3 year terms, except that of
17 the initial members appointed, one shall be appointed for
18 a term of one year, one for a term of 2 years, and one
19 for a term of 3 years.

20 (2) One member who represents wholesale
21 distributors of drycleaning solvents. This member shall
22 serve for a term of 3 years.

23 (3) One member who represents the drycleaning
24 equipment manufacturers and vendor community. This
25 member shall serve for a term of 3 years.

26 (4) Two members with experience in financial
27 markets or the insurance industry. These members shall
28 serve 3-year terms, except that of the initial
29 appointments, one shall be appointed for a term of 2
30 years, and one for a term of 3 years.

1 Each member shall have experience, knowledge, and
2 expertise relating to the subject matter of this Act.

3 A member of the Illinois Environmental Protection Agency
4 shall be allowed to attend all Council meetings, but shall
5 not have a vote on any matters before the Council.

6 Members of the Council serving on January 1, 2004 shall
7 serve the remainder of their terms, notwithstanding that the
8 Senate has not consented to their appointment.

9 (b) The Governor may remove any member of the Council
10 for incompetency, neglect of duty, or malfeasance in office
11 after service on him or her of a copy of the written charges
12 against him or her and after an opportunity to be publicly
13 heard in person or by counsel in his or her own defense no
14 earlier than 10 days after the Governor has provided notice
15 of the opportunity to the Council member. Evidence of
16 incompetency, neglect of duty, or malfeasance in office may
17 be provided to the Governor by the Agency or the Auditor
18 General following the annual audit described in Section 80.
19 The Governor shall promptly appoint a person to fill any
20 vacancy on the Council for the unexpired term.

21 (c) Members of the Council are entitled to receive
22 reimbursement of actual expenses incurred in the discharge of
23 their duties within the limit of funds appropriated to the
24 Council or made available to the Fund. The Governor shall
25 appoint a chairperson of the Council from among the members
26 of the Council.

27 (d) The Attorney General's office or its designee shall
28 provide legal counsel to the Council.

29 (Source: P.A. 90-502, eff. 8-19-97.)

30 (415 ILCS 135/20)

31 Sec. 20. Council rules.

32 (a) The Council may adopt rules in accordance with the
33 emergency rulemaking provisions of Section 5-45 of the

1 Illinois Administrative Procedure Act for one year after the
2 effective date of this Act. Thereafter, the Council shall
3 conduct general rulemaking as provided under the Illinois
4 Administrative Procedure Act.

5 (b) The Council shall adopt rules regarding its practice
6 and procedures for investigating and settling claims made
7 against the Fund, determining reimbursement guidelines,
8 coordinating with the Agency, and otherwise implementing and
9 administering the Fund under this Act.

10 (c) The Council shall adopt rules regarding its practice
11 and procedures to develop underwriting standards, establish
12 insurance account coverage and risk factors, settle claims
13 made against the insurance account of the Fund, determine
14 appropriate deductibles or retentions in coverages or
15 benefits offered under the insurance account of the Fund,
16 determine reimbursement guidelines, and otherwise implement
17 and administer the insurance account under this Act.

18 (d) The Council shall adopt rules necessary for the
19 implementation and collection of insurance account premiums
20 prior to offering insurance to an owner or operator of a
21 drycleaning facility or other person.

22 (e) The Council shall adopt rules prescribing
23 requirements for the retention of records by an owner or
24 operator and the periods for which he or she must retain
25 those records.

26 (f) The Council shall adopt rules describing the manner
27 in which all disbursed moneys received from the Agency shall
28 be deposited with a bank or savings and loan association to
29 be approved by the Council. For purposes of this subsection,
30 the Council shall be considered a public agency and,
31 therefore, no bank or savings and loan association shall
32 receive public funds from the Council, and the Council shall
33 not make any investments, unless in accordance with the
34 Public Funds Investment Act.

1 (f-5) The Council, in consultation with the Agency,
2 shall define the terms "drycleaning drop-off facility"
3 "drycleaning solvents dealer", and "green solvent" no later
4 than January 1, 2004.

5 (g) All final Council decisions regarding the Fund or
6 any reimbursement from the Fund and any decision concerning
7 the classification of drycleaning solvents pursuant to
8 subsection (a) of Section 65 of this Act shall be subject to
9 appeal by the affected parties. The Council shall determine
10 by rule persons who have standing to appeal final Council
11 decisions. All appeals of final Council decisions shall be
12 presented to and reviewed by the Council's administrative
13 hearing officer. An appeal of the administrative hearing
14 officer's decision will be subject to judicial review in
15 accordance with the Administrative Review Law.

16 The Council shall adopt rules relating to appeal
17 procedures that shall require the Council to deliver notice
18 of appeal to the affected parties within 30 days of receipt
19 of notice, require that the hearing be held within 180 days
20 of the filing of the petition unless good cause is shown for
21 the delay, and require that a final decision be issued no
22 later than 120 days following the close of the hearing. The
23 time restrictions in this subsection may be waived by mutual
24 agreement of the parties.

25 (Source: P.A. 90-502, eff. 8-19-97.)

26 (415 ILCS 135/25)

27 Sec. 25. Powers and duties of the Council; Agency duties.

28 (a) The Council shall have all of the general powers
29 reasonably necessary and convenient to carry out its purposes
30 and may perform the following functions, subject to any
31 express limitations contained in this Act:

32 (1) Take actions and enter into agreements
33 necessary to reimburse claimants for eligible remedial

1 action expenses, assist the Agency to protect the
2 environment from releases, reduce costs associated with
3 remedial actions, and establish and implement an
4 insurance program.

5 (2) Acquire and hold personal property to be used
6 for the purpose of remedial action.

7 (3) Purchase, construct, improve, furnish, equip,
8 lease, option, sell, exchange, or otherwise dispose of
9 one or more improvements under the terms it determines.
10 The Council may define "improvements" by rule for
11 purposes of this Act.

12 (4) Grant a lien, pledge, assignment, or other
13 encumbrance on one or more revenues, assets of right,
14 accounts, or funds established or received in connection
15 with the Fund, including revenues derived from fees or
16 taxes collected under this Act.

17 (5) Contract for the acquisition or construction of
18 one or more improvements or parts of one or more
19 improvements or for the leasing, subleasing, sale, or
20 other disposition of one or more improvements in a manner
21 the Council determines.

22 (6) Cooperate with the Agency in the implementation
23 and administration of this Act to minimize unnecessary
24 duplication of effort, reporting, or paperwork and to
25 maximize environmental protection within the funding
26 limits of this Act.

27 (7) Except as otherwise provided by law, inspect
28 any document in the possession of an owner, operator,
29 service provider, or any other person if the document is
30 relevant to a claim for reimbursement under this Section
31 or may inspect a drycleaning facility for which a claim
32 for benefits under this Act has been submitted.

33 (b) The Council shall pre-approve, and the contracting
34 parties shall seek pre-approval for, a contract entered into

1 under this Act if the cost of the contract exceeds \$75,000.
2 The Council or its designee shall review and approve or
3 disapprove all contracts entered into under this Act.
4 However, review by the Council or its designee shall not be
5 required when an emergency situation exists. All contracts
6 entered into by the Council shall be awarded on a
7 competitive basis to the maximum extent practical. In those
8 situations where it is determined that bidding is not
9 practical, the basis for the determination of
10 impracticability shall be documented by the Council or its
11 designee.

12 (c) The Council may prioritize the expenditure of funds
13 from the remedial action account whenever it determines that
14 there are not sufficient funds to settle all current claims.
15 In prioritizing, the Council may consider the following:

16 (1) the degree to which human health is affected by
17 the exposure posed by the release;

18 (2) the reduction of risk to human health derived
19 from remedial action compared to the cost of the
20 remedial action;

21 (3) the present and planned uses of the impacted
22 property; and

23 (4) other factors as determined by the Council.

24 The Council shall submit to the Agency for review any
25 prioritization of remediation sites. The Agency shall advise
26 the Council of any additional sites potentially eligible for
27 remediation that have been identified through programs other
28 than this Act and shall comment on the appropriateness of the
29 Council's overall prioritization.

30 The Council may issue a letter to a drycleaning facility
31 that is eligible for prioritization but that has not been
32 prioritized and that meets all applicable federal and State
33 requirements for remediation on a continuous basis, stating
34 that the site is prioritized for clean-up and shall be

1 remediated as long as applicable federal and State
2 requirements continue to be met.

3 (d) The Council must submit to the Agency notice of any
4 proposed environmental action at least 2 weeks prior to the
5 date of the meeting at which the contemplated action is
6 expected to be taken.

7 (e) Agencies including, but not limited to, the Illinois
8 Department of Transportation, the Department of Commerce and
9 Community Affairs, and the Illinois Environmental Protection
10 Agency shall submit to the Council information regarding
11 contractors that have previously been approved by those
12 agencies for performance of environmental remediation. The
13 Council shall provide information regarding those contractors
14 to drycleaners. Reimbursement from the Fund for
15 environmental remediation shall not be limited solely to
16 those contractors that have received this prior approval by
17 the agencies. The Council shall adopt rules allowing direct
18 payment from the Fund of a contractor who performs
19 remediation. The rules concerning direct payment shall
20 include a provision that any applicable deductible must be
21 paid by the drycleaning facility prior to any direct payment
22 from the Fund.

23 (Source: P.A. 90-502, eff. 8-19-97.)

24 (415 ILCS 135/40)

25 Sec. 40. Remedial action account.

26 (a) The remedial action account is established to
27 provide reimbursement to eligible claimants for drycleaning
28 solvent investigation, remedial action planning, and remedial
29 action activities for existing drycleaning solvent
30 contamination discovered at their drycleaning facilities.

31 (b) The following persons are eligible for reimbursement
32 from the remedial action account:

33 (1) In the case of claimant who is the owner or

1 operator of an active drycleaning facility licensed by
2 the Agency Council under this Act at the time of
3 application for remedial action benefits afforded under
4 the Fund, the claimant is only eligible for reimbursement
5 of remedial action costs incurred in connection with a
6 release from that drycleaning facility, subject to any
7 other limitations under this Act.

8 (2) In the case of a claimant who is the owner of
9 an inactive drycleaning facility and was the owner or
10 operator of the drycleaning facility when it was an
11 active drycleaning facility, the claimant is only
12 eligible for reimbursement of remedial action costs
13 incurred in connection with a release from the
14 drycleaning facility, subject to any other limitations
15 under this Act.

16 (3) In the case of a claimant who is the owner or
17 operator of a licensed drycleaning drop-off facility and
18 who was not the owner or operator of the licensed
19 drycleaning drop-off facility when it was an active
20 drycleaning facility, the claimant is only eligible for
21 reimbursement of remedial action costs in connection with
22 a release from the drycleaning facility, subject to the
23 payment of solvent taxes under subsection (h-7) of
24 Section 65 of this Act and to any other limitation under
25 this Act.

26 (c) An eligible claimant requesting reimbursement from
27 the remedial action account shall meet all of the following:

28 (1) The claimant demonstrates that the source of
29 the release is from the claimant's drycleaning facility.

30 (2) At the time the release was discovered by the
31 claimant, the claimant and the drycleaning facility were
32 in compliance with the Agency reporting and technical
33 operating requirements.

34 (3) The claimant reported the release in a timely

1 manner to the Agency in accordance with State law.

2 (4) The claimant applying for reimbursement has not
3 filed for bankruptcy on or after the date of his or her
4 discovery of the release.

5 (5) If the claimant is the owner or operator of an
6 active drycleaning facility, the claimant has provided to
7 the Council proof of implementation and maintenance of
8 the following pollution prevention measures:

9 (A) That all drycleaning solvent wastes
10 generated at a drycleaning facility be managed in
11 accordance with applicable State waste management
12 laws and rules.

13 (B) A prohibition on the discharge of
14 wastewater from drycleaning machines or of
15 drycleaning solvent from drycleaning operations to a
16 sanitary sewer or septic tank or to the surface or
17 in groundwater.

18 (C) That every drycleaning facility:

19 (I) install a containment dike or other
20 containment structure around each machine, or
21 item of equipment, ~~or the entire~~ drycleaning
22 area, and portable waste container in which any
23 drycleaning solvent is utilized or stored,
24 which shall be capable of containing leaks,
25 spills, any leak, spill, or releases release of
26 drycleaning solvent from that machine, item, ~~or~~
27 area, or container. The containment dike or
28 other containment structure shall be capable of
29 at least the following:

30 (a) containing a capacity of 110% of
31 the drycleaning solvent in the largest
32 tank or vessel within the machine; and

33 (b) containing 100% of the
34 drycleaning solvent of each item of

1 equipment or drycleaning area; and

2 (c) containing 100% of the
3 drycleaning solvent of the largest
4 portable waste container or at least 10%
5 of the total volume of the portable waste
6 containers stored within the containment
7 dike or structure, whichever is greater.

8 Petroleum underground storage tank systems
9 that are upgraded in accordance with the U.S.
10 EPA upgrade standards for the tanks and related
11 pipng systems and use a leak detection system
12 approved by U.S. or Illinois EPA are exempt
13 from this secondary containment requirement;
14 and

15 (II) seal or otherwise render impervious
16 those portions of diked floor surfaces on which
17 a drycleaning solvent may leak, spill, or
18 otherwise be released.

19 (D) A requirement that all drycleaning solvent
20 shall be delivered to drycleaning facilities by
21 means of closed, direct-coupled delivery systems.

22 (6) An active drycleaning facility has maintained
23 continuous financial assurance for environmental
24 liability coverage in the amount of at least \$500,000 at
25 least since the date of award of benefits under this
26 Section or July 1, 2000, whichever is earlier. An
27 uninsured drycleaning facility that has filed an
28 application for insurance with the Fund by April 1, 2004,
29 obtained insurance through that application, and
30 maintained that insurance coverage continuously shall be
31 considered to have conformed with the requirements of
32 this subdivision (6).

33 (7) The release was discovered on or after July 1,
34 1997 and before July 1, 2016 2004.

1 (d) A claimant shall submit a completed application form
 2 provided by the Council. The application shall contain
 3 documentation of activities, plans, and expenditures
 4 associated with the eligible costs incurred in response to a
 5 release of drycleaning solvent from a drycleaning facility.
 6 Application for remedial action account benefits must be
 7 submitted to the Council on or before June 30, 2016 2004.

8 (e) Claimants shall be subject to the following
 9 deductible requirements, unless modified pursuant to the
 10 Council's authority under Section 75:

11 (1) An eligible claimant submitting a claim for an
 12 active drycleaning facility is responsible for 10% the
 13 ~~first--\$5,000~~ of eligible investigation costs and 10% ~~for~~
 14 ~~the--first--\$10,000~~ of eligible remedial action costs
 15 incurred in connection with the release from the
 16 drycleaning facility and is only eligible for
 17 reimbursement for costs that exceed those amounts,
 18 subject to any other limitations of this Act.

19 (2) An eligible claimant submitting a claim for an
 20 inactive drycleaning facility is responsible for 10% the
 21 ~~first--\$10,000~~ of eligible investigation costs and for 10%
 22 ~~the--first--\$10,000~~ of eligible remedial action costs
 23 incurred in connection with the release from that
 24 drycleaning facility, and is only eligible for
 25 reimbursement for costs that exceed those amounts,
 26 subject to any other limitations of this Act.

27 (f) Claimants are subject to the following limitations
 28 on reimbursement:

29 (1) Subsequent to meeting the deductible
 30 requirements of subsection (e), and pursuant to the
 31 requirements of Section 75, reimbursement shall not
 32 exceed \$300,000 per drycleaning facility.‡

33 ~~{A}--\$160,000-per-active--drycleaning--facility~~
 34 ~~for--which-an-eligible-claim-is-submitted-during-the~~

1 program-year-beginning-July-1,1999;

2 (B)--\$150,000-per-active--drycleaning--facility
3 for--which-an-eligible-claim-is-submitted-during-the
4 program-year-beginning-July-1,2000;

5 (C)--\$140,000-per-active--drycleaning--facility
6 for--which-an-eligible-claim-is-submitted-during-the
7 program-year-beginning-July-1,2001;

8 (D)--\$130,000-per-active--drycleaning--facility
9 for--which-an-eligible-claim-is-submitted-during-the
10 program-year-beginning-July-1,2004;

11 (E)--\$120,000-per-active--drycleaning--facility
12 for-which-an-eligible--claim-is-submitted-during-the
13 program-year-beginning-July-1,2003;-or

14 (F)--\$50,000-per-inactive-drycleaning-facility.

15 (2) A contract in which one of the parties to the
16 contract is a claimant, for goods or services that may be
17 payable or reimbursable from the Council, is void and
18 unenforceable unless and until the Council has found that
19 the contract terms are within the range of usual and
20 customary rates for similar or equivalent goods or
21 services within this State and has found that the goods
22 or services are necessary for the claimant to comply with
23 Council standards or other applicable regulatory
24 standards.

25 (3) A claimant may appoint the Council as an agent
26 for the purposes of negotiating contracts with suppliers
27 of goods or services reimbursable by the Fund. The
28 Council may select another contractor for goods or
29 services other than the one offered by the claimant if
30 the scope of the proposed work or actual work of the
31 claimant's offered contractor does not reflect the
32 quality of workmanship required or if the costs are
33 determined to be excessive, as determined by the Council.

34 (4) The Council may require a claimant to obtain

1 and submit 3 bids and may require specific terms and
2 conditions in a contract subject to approval.

3 (5) The Council may enter into a contract or an
4 exclusive contract with the supplier of goods or services
5 required by a claimant or class of claimants, in
6 connection with an expense reimbursable from the Fund,
7 for a specified good or service at a gross maximum price
8 or fixed rate, and may limit reimbursement accordingly.

9 (6) Unless emergency conditions exist, a service
10 provider shall obtain the Council's approval of the
11 budget for the remediation work before commencing the
12 work. No expense incurred that is above the budgeted
13 amount shall be paid unless the Council approves the
14 expense prior to its being incurred. All invoices and
15 bills relating to the remediation work shall be submitted
16 with appropriate documentation, as deemed necessary by
17 the Council, not later than 30 days after the work has
18 been performed.

19 (7) Neither the Council nor an eligible claimant is
20 responsible for payment for costs incurred that have not
21 been previously approved by the Council, unless an
22 emergency exists.

23 (8) The Council may determine the usual and
24 customary costs of each item for which reimbursement may
25 be awarded under this Section. The Council may revise the
26 usual and customary costs from time to time as necessary,
27 but costs submitted for reimbursement shall be subject to
28 the rates in effect at the time the costs were incurred.

29 (9) If a claimant has pollution liability insurance
30 coverage other than coverage provided by the insurance
31 account under this Act, that coverage shall be primary.
32 Reimbursement from the remedial account shall be limited
33 to the deductible amounts under the primary coverage and
34 the amount that exceeds the policy limits of the primary

1 coverage, subject to the deductible amounts of this Act.
2 If there is a dispute between the claimant and the
3 primary insurance provider, reimbursement from the
4 remedial action account may be made to the claimant after
5 the claimant assigns all of his or her interests in the
6 insurance coverage to the Council.

7 (g) The source of funds for the remedial action account
8 shall be moneys allocated to the account by the Council
9 according to the Fund budget approved by the Council.

10 (h) A drycleaning facility will be classified as active
11 or inactive for purposes of determining benefits under this
12 Section based on the status of the facility on the date a
13 claim is filed.

14 (i) Eligible claimants shall conduct remedial action in
15 accordance with the Site Remediation Program under the
16 Environmental Protection Act and Part 740 of Title 35 of the
17 Illinois Administrative Code and the Tiered Approach to
18 Cleanup Objectives under Part 742 of Title 35 of the Illinois
19 Administrative Code.

20 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

21 (415 ILCS 135/45)

22 Sec. 45. Insurance account.

23 (a) The insurance account shall offer financial
24 assurance for a qualified owner or operator of a drycleaning
25 facility under the terms and conditions provided for under
26 this Section. Coverage may be provided to either the owner or
27 the operator of a drycleaning facility. The Council is not
28 required to resolve whether the owner or operator, or both,
29 are responsible for a release under the terms of an agreement
30 between the owner and operator.

31 (a-1) By April 1, 2004, an active drycleaning facility
32 must obtain and maintain environmental pollution liability
33 insurance. Each active drycleaning facility is required to

1 purchase and maintain insurance from the Fund until that
2 facility has been issued a No Further Remediation Letter or
3 letter issued under Section 4(y) of the Environmental
4 Protection Act by the Agency. After receipt of the No
5 Further Remediation Letter or letter issued under Section
6 4(y) of the Environmental Protection Act from the Agency, a
7 drycleaner may obtain insurance either from the Fund or from
8 a private insurer.

9 (a-2) Drycleaning facilities that exclusively use or
10 adopt the exclusive use of "green" solvents, as defined by
11 the Council, may obtain insurance either from the Fund or
12 from a private insurer.

13 (b) The source of funds for the insurance account shall
14 be as follows:

15 (1) Moneys appropriated to the Council or moneys
16 allocated to the insurance account by the Council
17 according to the Fund budget approved by the Council.

18 (2) Moneys collected as an insurance premium,
19 including service fees, if any.

20 (3) Investment income attributed to the insurance
21 account by the Council.

22 (c) An owner or operator may purchase coverage of up to
23 \$500,000 per drycleaning facility subject to the terms and
24 conditions under this Section and those adopted by the
25 Council. Coverage shall be limited to remedial action costs
26 associated with soil and groundwater contamination resulting
27 from a release of drycleaning solvent at an insured
28 drycleaning facility, including third-party liability for
29 soil and groundwater contamination. Coverage is not provided
30 for a release that occurred before the date of coverage.

31 (d) An owner or operator, subject to underwriting
32 requirements and terms and conditions deemed necessary and
33 convenient by the Council, may purchase insurance coverage
34 from the insurance account provided that the drycleaning

1 facility to be insured meets the following conditions:

2 (1) a site investigation designed to identify soil
3 and groundwater contamination resulting from the release
4 of a drycleaning solvent has been completed. The Council
5 shall determine if the site investigation is adequate.
6 This investigation must be completed by June 30, 2016
7 2004. For drycleaning facilities that apply for
8 insurance coverage ~~become-active~~ after June 30, 2004, the
9 site investigation must be completed prior to issuance of
10 insurance coverage; and

11 (2) the drycleaning facility is participating in
12 and meets all requirements of a drycleaning compliance
13 program approved by the Council.

14 (e) The annual premium for insurance coverage shall be:

15 (1) For the year July 1, 1999 through June 30,
16 2000, \$250 per drycleaning facility.

17 (2) For the year July 1, 2000 through June 30,
18 2001, \$375 per drycleaning facility.

19 (3) For the year July 1, 2001 through June 30,
20 2002, \$500 per drycleaning facility.

21 (4) For the year July 1, 2002 through June 30,
22 2003, \$625 per drycleaning facility.

23 (5) For years beginning July 1, 2003 or thereafter,
24 \$500 per drycleaning facility. ~~For-subsequent-years,~~
25 ~~an~~ ~~owner--or--operator--applying--for--coverage--shall--pay--an~~
26 ~~annual-actuarially-sound-insurance-premium--for--coverage~~
27 ~~by--the--insurance-account.--The-Council-may-approve-Fund~~
28 ~~coverage-through-the-payment-of-a-premium-established--on~~
29 ~~an-actuarially-sound-basis,~~ ~~taking-into-consideration-the~~
30 ~~risk--to--the-insurance-account-presented-by-the-insured.~~
31 ~~Risk---factor---adjustments---utilized---to---determine~~
32 ~~actuarially-sound--insurance--premiums-should-reflect-the~~
33 ~~range-of-risk-presented-by--the--variety--of--drycleaning~~
34 ~~systems,~~ ~~monitoring--systems,~~ ~~drycleaning--volume,~~ ~~risk~~

1 management practices, and other factors as determined by
 2 the Council. As used in this item, "actuarially sound" is
 3 not limited to Fund premium revenue equaling or exceeding
 4 Fund expenditures for the general drycleaning facility
 5 population. Actuarially determined premiums shall be
 6 published at least 180 days prior to the premiums
 7 becoming effective.

8 (f) If coverage is purchased for any part of a year, the
 9 purchaser shall pay the full annual premium. The insurance
 10 premium is fully earned upon issuance of the insurance
 11 policy.

12 (g) The insurance coverage shall be provided with a
 13 \$10,000 deductible policy.

14 (g-5) By January 1, 2007, the Council shall adopt the
 15 financial and accounting procedures necessary to ensure that
 16 insurance premiums paid to the Fund are segregated from all
 17 other sources of Fund income.

18 (h) A future repeal of this Section shall not terminate
 19 the obligations under this Section or authority necessary to
 20 administer the obligations until the obligations are
 21 satisfied, including but not limited to the payment of claims
 22 filed prior to the effective date of any future repeal
 23 against the insurance account until moneys in the account are
 24 exhausted. Upon exhaustion of the moneys in the account, any
 25 remaining claims shall be invalid. If moneys remain in the
 26 account following satisfaction of the obligations under this
 27 Section, the remaining moneys and moneys due the account
 28 shall be used to assist current insureds to obtain a viable
 29 insuring mechanism as determined by the Council after public
 30 notice and opportunity for comment.

31 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

32 (415 ILCS 135/60)

33 (Section scheduled to be repealed on January 1, 2010)

1 Sec. 60. Drycleaning facility, drycleaning drop-off
2 facility, or drycleaning solvents dealer license.

3 ~~(a) On and after January 1, 1998,~~ On and after January
4 1, 2004, no person shall operate a drycleaning facility or a
5 drycleaning drop-off facility in this State without a license
6 issued by the Agency Council.

7 ~~(a-5)~~ On and after January 1, 2004, no person shall
8 operate as a dealer of drycleaning solvents in this State
9 without obtaining a license issued by the Agency.

10 (b) On and after January 1, 2004 the Agency Council
11 shall issue an initial or renewal license to a drycleaning
12 facility, drycleaning drop-off facility, or drycleaning
13 solvents dealer on submission by an applicant of a completed
14 form prescribed by the Agency Council and proof of payment of
15 the required fee to the Department of Revenue.

16 (c) On and after January 1, 2004, the annual fee fees
17 for licensure of drycleaning facilities and drycleaning
18 solvent dealers is \$750. are-as-follows: Drycleaning drop-off
19 facilities owned by a licensed active drycleaning facility
20 shall pay an annual fee for licensure of \$150. All other
21 drycleaning drop-off facilities shall pay an annual fee for
22 licensure of \$750. If the license fees paid by active
23 drycleaning drop-off facilities do not yield a total of
24 \$750,000 in any year, the Council may adjust, by rule, the
25 annual license fee paid by active drycleaning drop-off
26 facilities owned by a licensed active drycleaner facility up
27 to a maximum of \$750 or to the amount of the annual license
28 fee applicable to an active drycleaning drop-off facility
29 that is not owned by an active licensed drycleaning facility,
30 whichever is greater.

31 ~~(1) --\$500-for-a-facility-that-purchases-140--gallons~~
32 ~~or--less--of-chlorine-based-drycleaning-solvents-annually~~
33 ~~or-1400-gallons-or-less-of-hydrocarbon-based--drycleaning~~
34 ~~solvents-annually.~~

1 (2) -- \$1,000 -- for a facility that purchases more than
 2 140 gallons but less than 360 gallons -- of -- chlorine-based
 3 drycleaning -- solvents -- annually -- or -- more -- than -- 1400 gallons
 4 but -- less -- than -- 3600 -- gallons -- of -- hydrocarbon-based
 5 drycleaning solvents annually.

6 (3) -- \$1,500 -- for -- a -- facility -- that -- purchases -- 360
 7 gallons -- or -- more -- of -- chlorine-based -- drycleaning -- solvents
 8 annually -- or -- 3600 -- gallons -- or -- more -- of -- hydrocarbon-based
 9 drycleaning solvents annually.

10 For -- purpose -- of -- this -- subsection, -- the -- quantity -- of
 11 drycleaning -- solvents -- purchased -- annually -- shall -- be -- determined
 12 as follows:

13 (1) -- in -- the -- case -- of -- an -- initial -- applicant, -- the
 14 quantity -- of -- drycleaning -- solvents -- that -- the -- applicant
 15 estimates -- will -- be -- used -- during -- his -- or -- her -- initial -- license
 16 year. -- A -- fee -- assessed -- under -- this -- subdivision -- is -- subject
 17 to -- audited -- adjustment -- for -- that -- year; -- or

18 (2) -- in -- the -- case -- of -- a -- renewal -- applicant, -- the
 19 quantity -- of -- drycleaning -- solvents -- actually -- used -- in -- the
 20 preceding -- license -- year.

21 The Council may adjust licensing fees annually -- based -- on
 22 the -- published -- Consumer -- Price -- Index -- All -- Urban -- Consumers
 23 ("CPI-U") -- or -- as -- otherwise -- determined -- by -- the -- Council.

24 (d) A license issued under this Section shall expire one
 25 year after the date of issuance and may be renewed on
 26 reapplication to the Agency Council and submission of proof
 27 of payment of the appropriate fee to the Department of
 28 Revenue in accordance with subsections (c) and (e). On and
 29 after January 1, 2004, at least 30 days before payment of a
 30 renewal licensing fee is due, the Agency Council shall
 31 attempt to:

32 (1) notify the operator of each licensed
 33 drycleaning facility, the operator of each licensed
 34 drycleaning drop-off facility, and each licensed dealer

1 of drycleaning solvents concerning the requirements of
2 this Section; and

3 (2) submit a license fee payment form to the
4 licensed operator of each drycleaning facility and each
5 licensed drycleaning drop-off facility and to each
6 licensed dealer of drycleaning solvents.

7 (e) On and after January 1, 2004, an operator of a
8 drycleaning facility, an operator of drycleaning drop-off
9 facility, and a dealer of drycleaning solvents shall submit
10 the appropriate application form provided by the Agency
11 Council with the license fee in the form of cash or
12 guaranteed remittance to the Department of Revenue. The
13 license fee payment form and the actual license fee payment
14 shall be administered by the Department of Revenue under
15 rules adopted by that Department.

16 (f) On and after January 1, 2004, the Department of
17 Revenue shall provide ~~issue~~ a proof of payment receipt to the
18 Agency who shall then issue an annual license to each
19 operator of a drycleaning facility, each operator of a
20 drycleaning drop-off facility, and each dealer of drycleaning
21 solvents who has paid the appropriate fee in cash or by
22 guaranteed remittance. ~~However, the Department of Revenue~~
23 ~~shall not issue a proof of payment receipt to a drycleaning~~
24 ~~facility that is liable to the Department of Revenue for a~~
25 ~~tax imposed under this Act. The original receipt shall be~~
26 ~~presented to the Council by the operator of a drycleaning~~
27 ~~facility.~~

28 (f-3) A penalty of no more than \$500 per day, as
29 determined by the Agency, shall be assessed by the Agency
30 against any operator of a drycleaning facility or drycleaning
31 drop-off facility or any dealer of drycleaning solvents who
32 fails to obtain a valid license by the date required in this
33 Section.

34 (f-5) An operator of a drycleaning facility or

1 drycleaning drop-off facility or a dealer of drycleaning
2 solvents shall be granted a 90 day grace period, beginning on
3 January 1, 2004, within which to become licensed, to pay any
4 overdue license fees, to pay any unpaid floor taxes, and to
5 pay any penalties as defined in subsection (g) of this
6 Section up to a maximum of \$450, in order to become licensed
7 without penalty.

8 (f-7) A operator of a licensed drycleaning facility, a
9 operator of a licensed drycleaning drop-off facility, or a
10 dealer of licensed drycleaning solvents who has paid
11 penalties in excess of \$450 shall receive from the Council a
12 refund of the amount of the penalties in excess of \$450 that
13 were paid on or before the last day of the 90-day grace
14 period established in subsection (f-5).

15 (g) An operator of a dry cleaning facility or
16 drycleaning drop-off facility or a dealer of dry cleaning
17 solvents who is required to pay a license fee under this Act
18 prior to the end of the 90 day grace period and fails to pay
19 the license fee when the fee is due shall be assessed a
20 penalty of \$5 for each day after the license fee is due and
21 until the license fee is paid. The penalty shall be
22 effective for license fees due on or after July 1, 1999.

23 (g-5) Any drycleaning facility or drycleaning drop-off
24 facility required under Section 45 to be insured must pay the
25 premium or the Agency may revoke the drycleaning facility's
26 license or the drycleaning drop-off facility's license.

27 (h) The Agency Council and the Department of Revenue may
28 adopt rules as necessary to administer the licensing
29 requirements of this Act.

30 (i) Where this Section allows for the payment of license
31 fees by cash or guaranteed remittance, the Department may
32 adopt rules allowing for payment of the license fees due
33 under this Act by credit card only when the Department is not
34 required to pay a discount fee charged by the credit card

1 issuer.

2 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

3 (415 ILCS 135/65)

4 (Section scheduled to be repealed on January 1, 2010)

5 Sec. 65. Drycleaning solvent tax.

6 (a) On and after January 1, 2004, ~~On and after January~~
7 ~~1-1998,~~ a tax is imposed upon the use of drycleaning solvent
8 by a person engaged in the business of operating a
9 drycleaning facility in this State at the rate of \$14.00
10 ~~\$3.50~~ per gallon of perchloroethylene or other chlorinated
11 drycleaning solvents used in drycleaning operations and \$1.40
12 ~~\$0.35~~ per gallon of petroleum-based drycleaning solvent. The
13 Council shall determine by rule which products are
14 chlorine-based drycleaning solvents, and which products are
15 petroleum-based drycleaning solvents, and which products are
16 "green" drycleaning solvents. All drycleaning solvents shall
17 be considered chlorinated drycleaning solvents unless the
18 Council determines that the solvents are petroleum-based
19 drycleaning solvents subject to the lower tax.

20 (b) The tax imposed by this Act shall be collected from
21 the purchaser at the time of sale by a seller of drycleaning
22 solvents maintaining a place of business in this State and
23 shall be remitted to the Department of Revenue under the
24 provisions of this Act.

25 (c) The tax imposed by this Act that is not collected by
26 a seller of drycleaning solvents shall be paid directly to
27 the Department of Revenue by the purchaser or end user who is
28 subject to the tax imposed by this Act.

29 (d) No tax shall be imposed upon the use of drycleaning
30 solvent if the drycleaning solvent will not be used in a
31 drycleaning facility or if a floor stock tax has been imposed
32 and paid on the drycleaning solvent. Prior to the purchase
33 of the solvent, the purchaser shall provide a written and

1 signed certificate to the drycleaning solvent seller stating:

2 (1) the name and address of the purchaser;

3 (2) the purchaser's signature and date of signing;

4 and

5 (3) one of the following:

6 (A) that the drycleaning solvent will not be
7 used in a drycleaning facility; or

8 (B) that a floor stock tax has been imposed
9 and paid on the drycleaning solvent.

10 A person who provides a false certification under this
11 subsection shall be liable for a civil penalty not to exceed
12 \$500 for a first violation and a civil penalty not to exceed
13 \$5,000 for a second or subsequent violation.

14 (e) On January 1, 1998, there is imposed on each
15 operator of a drycleaning facility a tax on drycleaning
16 solvent held by the operator on that date for use in a
17 drycleaning facility. The tax imposed shall be the tax that
18 would have been imposed under subsection (a) if the
19 drycleaning solvent held by the operator on that date had
20 been purchased by the operator during the first year of this
21 Act.

22 (f) On or before the 25th day of the 1st month following
23 the end of the calendar quarter, a seller of drycleaning
24 solvents who has collected a tax pursuant to this Section
25 during the previous calendar quarter, or a purchaser or end
26 user of drycleaning solvents required under subsection (c) to
27 submit the tax directly to the Department, shall file a
28 return with the Department of Revenue. The return shall be
29 filed on a form prescribed by the Department of Revenue and
30 shall contain information that the Department of Revenue
31 reasonably requires.

32 Each seller of drycleaning solvent maintaining a place of
33 business in this State who is required or authorized to
34 collect the tax imposed by this Act shall pay to the

1 Department the amount of the tax at the time when he or she
2 is required to file his or her return for the period during
3 which the tax was collected. Purchasers or end users
4 remitting the tax directly to the Department under subsection
5 (c) shall file a return with the Department of Revenue and
6 pay the tax so incurred by the purchaser or end user during
7 the preceding calendar quarter.

8 (g) The tax on drycleaning solvents used in drycleaning
9 facilities and the floor stock tax shall be administered by
10 Department of Revenue under rules adopted by that Department.

11 (h) On and after January 1, 1998, no person shall
12 knowingly sell or transfer drycleaning solvent to an operator
13 of a drycleaning facility that is not licensed by the Agency
14 Council under Section 60. A person who violates this
15 subsection is liable for a civil penalty not to exceed \$500
16 for a first violation and a civil penalty not to exceed
17 \$5,000 for a second or subsequent violation.

18 (h-5) Drycleaning facilities exclusively using
19 drycleaning solvents designated by rule as "green"
20 drycleaning solvents shall pay an annual solvent tax in an
21 amount equal to that imposed on consumption of 100 gallons of
22 chlorine-based drycleaning solvents in that calendar year.

23 (h-7) A claimant who is eligible for reimbursement from
24 the remedial action account under subsection (b)(2) or (b)(3)
25 of Section 40 shall pay solvent taxes in an amount equal to
26 the total amount imposed on annual consumption of 100 gallons
27 of chlorine-based solvent from the effective date of this Act
28 to the date of becoming licensed.

29 (i) The Department of Revenue may adopt rules as
30 necessary to implement this Section.

31 (Source: P.A. 90-502, eff. 8-19-97.)

32 (415 ILCS 135/70)

33 Sec. 70. Deposit of fees and taxes. On and after January

1 1, 2004, all license fees and taxes collected by the
2 Department of Revenue under this Act shall be deposited into
3 the Fund, except:

4 (1) less 2% 4% of the moneys collected, which shall
5 be deposited by the State Treasurer into the Tax
6 Compliance and Administration Fund and shall be used,
7 subject to appropriation, by the Department of Revenue to
8 cover the costs of the Department in collecting the
9 license fees and taxes under this Act;

10 (2) 7-and-less an amount sufficient to provide
11 refunds under this Act; and

12 (3) \$150 of each license fee collected, which shall
13 be forwarded to the Agency to be used for the costs of
14 the administration of this Act.

15 (Source: P.A. 90-502, eff. 8-19-97.)

16 (415 ILCS 135/75)

17 Sec. 75. Adjustment of fees and taxes. Beginning January
18 1, 2004 ~~beginning--January-1,--2000,--and-annually-after-that~~
19 ~~date,~~ the Council may adopt rules to ~~shall~~ adjust the
20 ~~payment--obligation--of--subsection--(e)--of--Section-40,~~ the
21 drycleaning solvent taxes of Section 65, the license fees of
22 Section 60, the insurance premiums in Section 45, or any
23 combination of adjustment of each, after notice and
24 opportunity for public comment, in a manner determined
25 necessary and appropriate to ensure viability of the Fund.
26 Viability of the Fund shall consider the settlement of all
27 current claims subject to prioritization of benefits under
28 subsection (c) of Section 25, consistent with the purposes of
29 this Act.

30 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

31 (415 ILCS 135/85)

32 Sec. 85. Repeal of fee and tax provisions. Sections 60

1 and 65 of this Act are repealed on January 1, 2022 ~~2010~~.
2 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

3 Section 99. Effective date. This Act takes effect on
4 January 1, 2004, except that this Section and the changes
5 made to Sections 20 and 45 of the Drycleaner Environmental
6 Response Trust Fund Act take effect upon becoming law.